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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,174	12/05/2001	William Gobush	20002.0162	3740
23517	7590	02/08/2005	EXAMINER	
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP			NGUYEN, KIM T	
3000 K STREET, NW			ART UNIT	
BOX IP			PAPER NUMBER	
WASHINGTON, DC 20007			3713	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/002,174	GOBUSH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kim Nguyen	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The amendment filed on 10/7/04 has been entered with the RCE of 11/11/04. By this amendment, claims 1-37 are pending in the application.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01.

- a) Claim 1 claims a portable monitor system including a light source and a light receiver. However, the connection between the light source and the light receiver is not provided. It is not clear how the output from the light source or the output from the light receiver should be utilized.
- b) Claim 18 is similarly rejected as explained above.
- c) Claims 2-17 and 19-27 are rejected as being dependent on the rejected base claim.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12, 15-17, 28-33 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imaizumi et al (US 6,293,911).

a. As per claim 1, Imaizumi discloses a monitor system for measuring kinematics of an object comprising a light source 3A (Fig. 1) capable of directing light at an object (col. 5, lines 58-61 and 46-53), and a light receiver 3B (fig. 1) comprising a filter 12 (Fig. 1) (col. 6, lines 24-25; and col. 7, lines 58-60). Imaizumi does not explicitly disclose that the monitor system is portable. However, resizing the monitor system to a size suitable for handheld usage would have been well known to a person of ordinary skill in the art at the time the invention was made. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to size the monitor system of Imaizumi to a size suitable for handheld, since resizing a device to make the device portable requires only routine skill in the art.

b. As per claim 2, selecting a specific emission wavelength to observe would have been obvious design choice.

c. As per claim 3-4, using a low pass filter or a band pass filter for filtering a range of frequency light would have been well known to a person of ordinary skill in the art at the time the invention was made. Further, filtering a specific range of frequency and selecting a light source with specific emission spectrum with a specific range of transmission wavelength as needed by a particular application would have been obvious design choice.

d. As per claim 5-6, Imaizumi discloses a light source having a wavelength of 400nm to 800nm (Fig. 2).

- e. As per claim 7-8 and 10, Imaizumi discloses a band pass filter with a center wavelength of 600nm (Fig. 2). Further, selecting a specific bandwidth for filtering a specific range of wavelength of light would have been both well-known and obvious design choice.
  - f. As per claim 9, the electronically switchable filter is a well-known filter type.
  - g. As per claim 11-12, Imaizumi discloses using light emitting diodes strobe light (col. 13, lines 15-18).
  - h. As per claim 15, using an orange-fluorescent marker would have been well known to a person of ordinary skill in the art at the time the invention was made.
  - i. As per claim 16-17, Imaizumi discloses including a central processing unit 5A (Fig. 1) in the system. Further, designing a system with a specific weight to fit a specific application requires only routine skill in the art. Further, using a battery as a power source would have been well known to a person of ordinary skill in the art at the time the invention was made.
  - j. As per claim 28-33 and 36-37, refer to discussion in claims 1, 4-6, and 8. Further, as to claim 36, Imaizumi discloses comprising a second filter 23 (Fig. 1) in the light receiver for locking the excitation spectrum wavelength.
5. Claims 13-14, 18-27, 30, 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imaizumi et al (US 6,293,911) in view of Gobush et al (US patent No. 5,575,719).
- a. As per claim 13, Gobush discloses including another object having a marker (col. 5, lines 10-13). Gobush does not disclose using marker of different reflective wavelength, size, etc. for the other object. However, it would have been obvious to a person of ordinary skill in the art at

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the time the invention was made to select a specific marker with specific reflective wavelength, size, etc. in order to facilitate tracking a specific object and excluding the object that the user is not interested in tracking the object.

- b. As per claim 14, Gobush discloses a golf ball object (col. 3, lines 15-18).
- c. As per claim 18-27, 30, and 34-35, refer to discussion in claims 1, 3-11 and 13 above.

*Response to Arguments*

6. Applicant's arguments with respect to claims 1-37 have been considered but are moot in view of the new ground of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is 571-272-4441. The examiner can normally be reached on Monday-Thursday during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on 571-272-7147. The central official fax number for the organization where this application or proceeding is assigned is 703-872-9306.

kn  
Date: February 3, 2005



Kim Nguyen  
Primary Examiner  
Art Unit 3713